

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA for
the use and benefit of BALLARD
MARINE CONSTRUCTION, LLC,

Plaintiffs,

v.

NOVA GROUP, INC., et al.,

Defendants.

CASE NO. 3:20-CV-05954-BHS-DWC

ORDER STAYING DISCOVERY AND
RE-NOTING PENDING MOTIONS

This case has been referred to the undersigned United States Magistrate Judge. Dkt. 7. On October 28, 2020, Defendants Federal Insurance Company (“Federal”) and Liberty Mutual Insurance Company (“Liberty”) filed a Joint Motion to Dismiss. Dkt. 14. On November 18, 2020, Defendant Nova Group, Inc. (“Nova”) filed a Motion to Dismiss. Dkt. 20. On the same day, Nova also filed a Motion to Stay Discovery Pending the Outcome of Nova’s Motion to Dismiss. Dkt. 22. The next day, on November 19, 2020, Federal and Liberty joined Nova’s Motion to Stay Discovery. Dkt. 24. Federal and Liberty have also joined Nova’s Motion to Dismiss. Dkt. 34. Plaintiff Ballard Marine Construction, LLC (“Ballard Marine”) filed a

1 Response to the Motion to Stay. Dkt. 32, 33. Federal, Liberty, and Nova have filed Replies to the
2 Motion to Stay. Dkt. 35, 36.

3 Ballard Marine has filed Responses to the Motions to Dismiss. Dkt. 19, 39. Ballard
4 embedded a Motion to Strike Joinder within its Response to the Nova Motion to Dismiss. Dkt.
5 39. Federal and Liberty have filed Replies to the Motion to Dismiss (Dkt. 25) and filed an
6 Alternative Motion to Stay. Dkt. 38. Ballard Marine has filed a Motion for Partial Summary
7 Judgment. Dkt. 30.

8 Defendants request the Court stay discovery pending the outcome of Nova's Motion to
9 Dismiss. Dkt. 22, 24. Ballard takes no position on the Motion to Stay. Dkt. 32. The Court has
10 broad discretionary powers to control discovery. *Little v. City of Seattle*, 863 F.2d 681, 685 (9th
11 Cir. 1988). A court may relieve a party of the burdens of discovery while a dispositive motion is
12 pending. *See Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36 (1984); *DiMartini v. Ferrin*, 889
13 F.2d 922, 926 (9th Cir. 1989), *amended at* 906 F.2d 465 (9th Cir. 1990); *see also Ministerio*
14 *Roca Solida v. U.S. Dep't of Fish & Wildlife*, 288 F.R.D. 500, 506 (D. Nev. 2013) (permitting a
15 stay of discovery where a pending dispositive motion is (1) "potentially dispositive of the entire
16 case or at least dispositive of the issue on which discovery is sought" and (2) can be decided
17 without additional discovery).

18 Here, Nova's Motion to Dismiss, which has been joined by Federal and Liberty, requests
19 the Court enforce an arbitration clause and dismiss the entire case. Dkt. 20. Furthermore, Federal
20 and Liberty have filed a partial Motion to Dismiss (Dkt. 14) and Ballard Marine has filed a
21 Motion for Partial Summary Judgment (Dkt. 30). The Court finds the pending motions will
22 potentially resolve this entire action and finds a decision is likely on the pending motions without
23 additional discovery. Further, the Court finds a stay would advance the efficiency of the Court
24

1 and litigants. Thus, Defendants' Motions to Stay Discovery (Dkt. 22, 24) are granted. Discovery
 2 – including deadlines for initial disclosures and for the combined joint status report and
 3 discovery plan – is stayed until the resolution of the pending Motions.

4 To ensure efficient and just resolution of the pending motions, the Court re-notes the
 5 Motion to Dismiss (Dkt. 14), Motion to Dismiss (Dkt. 20, 34), Motion for Partial Summary
 6 Judgment (Dkt. 30), Motion for Alternative Stay (Dkt. 38), and Motion to Strike Sureties'
 7 Joinder (Dkt. 39) to December 28, 2020 to allow all these Motions to be considered
 8 simultaneously.¹

9 Nova's optional reply to Ballard Marine's Response to Nova's Motion to Dismiss is due
 10 on or before December 11, 2020. Defendants' responses to Ballard Marine's Motion for Partial
 11 Summary Judgment and Ballard Marine's Motion to Strike Sureties' Joinder are due on or before
 12 December 21, 2020 with Ballard Marine's optional replies due on or before December 28, 2020.
 13 Ballard Marine's response and Nova's Response to Federal and Liberty's Alternative Motion to
 14 Stay are due on or before December 21, 2020, and Federal and Liberty's optional replies are due
 15 on or before December 28, 2020.

16 The Clerk is directed to re-note the Motions to Dismiss (Dkt. 14, 20), the Motion for
 17 Partial Summary Judgment (Dkt. 30), the Motion to Strike Sureties' Joinder (Dkt. 39), and the
 18 Alternative Motion to Stay (Dkt. 38) to December 28, 2020.

19 Dated this 9th day of December, 2020.

20 
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22 David W. Christel
 23 United States Magistrate Judge

24 ¹ As December 25, 2020 is a holiday, the next business day is December 28, 2020. Therefore, the Motions
 will be ready for consideration on December 28, 2020.